

In Re: Vittal Doss and anr.

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SooperKanoon Citation : sooperkanoon.com/791358

Court : Chennai

Decided On : Oct-06-1891

Reported in : (1892)ILR15Mad360

Judge : Shephard, J.

Appellant : In Re: Vittal Doss and anr.

Judgement :

Shephard, J.

1. I do not think that the language used in this will is such that Krisan Doss can be said to be constructively appointed executor. My attention was called to the decision In the goods of Badhika Mohan Sett 7 B.L.R., 563 in which the words of the will being somewhat similar the opinion was expressed that probate might be granted to the applicant as executor according to the tenor of the will. The case there mentioned does not bear out the proposition for which it is cited. In that case there was a direction that the person named should collect the testator's estate and pay all just debts, in other words, that he should discharge the function of executor. That therefore is a totally different case from the present. On the other hand, when the testator left all his property and effects to his wife without giving any further directions, the Court held In the goods of Thomas Henry Oliphant (1 Sw. & Tr., 525) in accordance with the practice, which had actually prevailed, that the wife was entitled to administer with the will annexed and not to probate.

